

REMARKS

Pursuant to 37 C.F.R. §1.111, reconsideration of the instant application, as amended herewith, is respectfully requested. Entry of the amendment is requested.

Claims 1-8 are presently pending before the Office, with claims 7 and 8 being added herein. No claims have been canceled. Applicant has amended the claims. No new matter has been added. Support for the amendments can be found throughout the specification as originally filed. Applicant is not intending in any manner to narrow the scope of the originally filed claims.

The Examiner's Action mailed July 7, 2004 and the references cited therein have been carefully studied by Applicant and the undersigned counsel. The amendments appearing herein and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is believed to be in condition for allowance.

Relying on 35 U.S.C. §103(a), the Examiner has rejected the subject matter of claims 1-3 as obvious over Lau and claims 1-6 as obvious over Tsuchiya. Applicant respectfully traverses the rejection and requests reconsideration.

It is evident that Applicant's invention is decidedly different from the teachings of the patent.

Applicant submits that the amendment to claim 1 herein distinguishes the formula 1a in Lau from the claimed invention.

New claim 7 is added to eliminate the compound of Tsuchiya et al., which is particularly emphasized by the Examiner.

New claim 8 is added to eliminate all the compounds indicated by the formula (I) of the Tsuchiya reference.

Claim 1 of the present invention includes the limitations to the effect that n is not 2 when Y is NR⁵CO, p is 1, q is 2 or 3, and one of R³ is halogen. By this amendment, Applicant submits that the compound of Lau indicated by the Examiner in the Office Action is eliminated from the scope of the present invention and the Examiner's rejection should therefore be withdrawn.

The Examiner notes that Applicant's previous arguments that the reference compounds have different utility than the present invention, is of little probative value inasmuch as applicant is claiming compounds. Applicant respectfully disagrees. The Examiner is overlooking the fact that the arguments previously submitted and incorporated by reference herein, were presented to show that one skilled in the art would not be motivated to consider Lau because of its different teachings.

Applicant herein incorporates by reference the attached Rule 132 Declaration executed by Mr. Tomoya HIDAKA. The substance of this declaration was presented in the previous arguments raised by Applicant but not in the form of a Rule 132 Declaration as impliedly requested by the Examiner.

Please note that the compound of Tsuchiya reference used in the comparison is the compound no. 75 prepared in Example 36, and is not the 36th compound as the Examiner pointed out in the Office Action. Applicant submits that the declaration clearly shows the advantages and unobviousness of the present invention over the cited reference.

Accordingly, the Examiner has not established a prima facie case of obviousness.

Withdrawal of the rejection is respectfully requested.

As noted above, new claim 7 is added in order to clearly eliminate the particular compound of Tsuchiya pointed out by the Examiner and new claim 8 is added to clearly eliminate all of the compounds indicated by the formula (I) of Tsuchiya.

CONCLUSION

In view of the discussion above, withdrawal of the rejections to claims 1-6 is respectfully requested. Applicant submits that claims 1-6 and new claims 7 and 8 are patentable over the cited art.

A Notice of Allowance is earnestly solicited.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 538-3800 would be appreciated.

Very respectfully,

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